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In the
Supreme Court of the United States

ABIGAIL NOEL FISHER,

Petitioner,

v.

UNIVERSITY OF TEXAS AT AUSTIN, ET AL.,

Respondents.

On Writ of Certiorari to the
United States Court of Appeals
For the Fifth Circuit

BRIEF FOR *AMICI CURIAE* CURRENT AND FORMER STUDENT BODY PRESIDENTS OF UNIVERSITY OF TEXAS AT AUSTIN IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*

Amici are a group of 17 individuals who have served as Student Body Presidents at the University of Texas at Austin ("UT"), during the period 1992 to the present.[1] Sixteen are UT graduates, and one a current student. *Amici* urge the Court to affirm the Fifth Circuit's holding that UT's holistic admission plan is consistent with constitutional mandates.

Having served as UT Student Body Presidents[2] and having gone on to leadership positions in their professional lives, *amici* are uniquely positioned to verify the important benefits stemming from diversity in higher education, as well as the detriments created by insufficient diversity.[3] They are also uniquely positioned to provide their

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[1] This brief is submitted with the consent of the parties, who have filed with the Clerk of the Court blanket consents to the submission of *amicus curiae* briefs. Pursuant to Rule 37.6, counsel represent that this brief was not authored in whole or in part by counsel for any party, and no person or entity other than *amici* and their counsel have made monetary contributions to the preparation and submission of this brief.

[2] The University of Texas at Austin Student Government serves as the official student voice for the entire undergraduate and graduate student body to the UT administration, the Board of Regents, and the Texas Legislature. Pursuant to Section 3.33c of the Constitution of the Student Government of the University of Texas at Austin, "the [Student Body] President shall represent students before the administration of The University of Texas at Austin, the Board of Regents of The University of Texas System, the City of Austin, and the Texas Legislature."

[3] The information regarding and quotes of *amici* set forth in this brief are based on first-hand input gathered individually from each *amicus* and each *amicus* has approved the content of this brief.

perspectives on the degree to which student body diversity existed and did not exist during their attendance at UT.

Members of this group of *amici* attended UT during periods in which three different admissions policies were in place. After graduation, *amici* have gone on, within the state of Texas and other states, to serve in leadership positions in various professions, including law, finance, government, politics, architecture, education, college sports, and public interest.

Amici who attended UT and experienced the effects of the admissions policy in place prior to 1996, when race was considered and was frequently outcome-determinative, include:

- Howard Nirken, who attended UT as an undergraduate student from 1989 to 1993, and served as UT's Student Body President from 1992 to 1993. Nirken later obtained his law degree and a master's degree in public affairs from UT. He currently practices corporate law and is a partner in an Austin, Texas law firm. He has also held various leadership positions in the Austin community.

- John Black, who attended UT as an undergraduate student from 1991 to 1995, and served as UT's Student Body President from 1994 to 1995. Black later obtained his law degree and a master's degree in public affairs from UT. He currently practices law in Houston, Texas, where he is a partner at his

own law firm, Daly & Black, P.C., and has held various leadership positions in the Houston community.

- Marlen Whitley, who was a UT undergraduate student from 1993 to 1998, and a UT law student from 1998 to 2001. He served as UT's Student Body President from 1997 to 1998. He is a partner in a Houston, Texas law firm and practices corporate and securities law. Whitley has also served on a number of non-profit boards and has been actively involved in promoting diversity and economic empowerment in his community.

- Anna Lisa Holand Miller, who was an undergraduate student at UT from 1995 to 1999, and served as UT's Student Body President from 1998 to 1999. Miller went on to obtain a law degree from UT, after which she worked at the White House. Since 2006 she has been the Business and Operations manager of an investment partnership in her home town of McAllen, Texas, a city near the Mexican border.

Amici also include those who attended UT during the period 1997 through 2004. These *amici* experienced the educational environment after UT ceased considering race in admissions in the wake of *Hopwood v. Texas,* 78 F.3d 932 (5th Cir. 1996), and instead relied solely on the top 10% law enacted in 1997. In addition to *amici* Whitley and Miller, whose UT enrollment continued into this period, *amici* attending UT during this period include:

- Parisa Fatehi, who was an undergraduate student at UT from 1996 to May 2001, and served as the UT Student Body President from 1999 to 2000. After her undergraduate years, Fatehi worked for the federal government in Washington, D.C., and then went on to obtain a law degree and a master's degree in public affairs from UT. She has served on two municipal commissions and previously worked as an attorney for a nonprofit civil rights law firm and advocacy organization in California. She is currently serving as Community Impact Manager for Google Fiber in Austin, Texas.

- Daron Roberts, who attended UT as an undergraduate from 1997 to 2001, and served as UT Student Body President from 2000 to 2001. After attending UT, Roberts went on to graduate from Harvard Law School and the Harvard Kennedy School of Government. Roberts' professional experience has included government work, including serving as an aide to a U.S. Senator. More recently, he has worked in coaching positions for NFL teams, and currently serves as the founding director of the Center for Sports Leadership & Innovation at UT. He is also the founder of a non-profit providing SAT preparation, football skills training and life skills development to high school students.

- Von Matthew Hammond, who attended UT as an undergraduate from 1997 to 2003, and served as UT Student Body President from 2001 to 2002. Hammond became a lawyer and

practiced transactional law for two years, after which he spent three years in Indiana state politics, working on political campaigns and as a lobbyist. He currently serves as the vice president and general counsel for the largest private high school in Indianapolis, Indiana.

- Danielle Rugoff, who attended the UT as an undergraduate from 2003 to 2007, and served as UT Student Body President from 2006 to 2007. Since graduating from UT, she has worked as a director for a prominent foreign policy lobby, served as the statewide director for a U.S. Senate campaign, and founded a grassroots Jewish community organization in Dallas, Texas. She has her own consulting company providing services to both non-profit and for-profit institutions, and currently serves as the Director of Development for Major Gifts for an international religious non-profit organization.

- Andrew Solomon, who attended UT as an undergraduate from 2004 to 2008, and served as UT Student Body President from 2007 to 2008. He attended UT Law School from 2008 through 2011, and practiced corporate law at an Austin, Texas law firm. He currently resides in Los Angeles, where he works for William Morris Endeavor in their independent film finance department.

Finally, *amici* include more recent Student Body Presidents who have attended UT in the years since 2005, when UT instituted and followed a holistic

admissions approach in which race is but one factor among numerous others considered in certain admissions decisions. In addition to *amici* Rugoff and Solomon, whose enrollment continued into this period, these *amici* include:

- Keshav Rajagopalan, who attended UT from 2005 through 2010, and served as UT Student Body President from 2008 through 2009. He currently works for a global asset management firm.

- William O'Rourke, who attended UT as an undergraduate from 2005 through 2010, and served as Student Body President from 2009 to 2010. After graduation, he worked for an Austin City Councilmember as a policy intern, attended Northwestern Law School, and is now an attorney at a large Houston law firm.

- Scott Parks, who attended UT from 2006 through 2011, and served as UT Student Body President from 2010 to 2011. He received a Master of Architecture from Yale University and now works as a designer at an architecture firm in New York City.

- Natalie Butler, who attended UT from 2007 through 2012. She served as the UT Student Body President from 2011 to 2012. She was a consultant for a major consulting firm until 2015, and is now an MBA Candidate at the Stanford Graduate School of Business.

- Thor Lund, who attended UT from 2009 through 2014 and served as the UT Student Body President from 2012 to 2013. He is currently working for a consulting firm.

- Horacio Villarreal, who attended UT from 2009 through 2014. He served as the UT Student Body President from 2013 to 2014. He is presently an acquisitions analyst for a real estate private equity firm.

- Kornel Rady, who attended UT from 2011 through 2015. He served as the UT Student Body President from 2014 to 2015. He is presently a first year law student at SMU Dedman School of Law and expects to graduate in 2018.

- Xavier Rotnofsky, who currently attends UT, and is serving as UT Student Body President from 2015 to 2016. In addition to serving as the UT Student Body President, he is an editor for the campus satirical publication Texas Travesty. As Student Body President, he successfully led a push to remove a Jefferson Davis statue that stood on a prominent part of campus.

No matter when they attended UT, *amici* uniformly agree that diversity efforts at UT are a work in progress and that "critical mass" has not yet been achieved. At the same time, they are unanimous in their belief – based on their own experiences – that a racially diverse educational

experience provides invaluable educational benefits that prepare students to be effective and successful in their careers and leadership positions. *Amici* believe that their perspectives, based on their experiences as UT students and student leaders, can be useful to the Court. These experiences confirm that student body diversity in higher education is a compelling state interest and further demonstrate that UT's current admissions policy has been and continues to be necessary to advancing that goal.

Amici organized for the sole purpose of conveying to the Court their experiences at UT and the educational benefits derived from learning among and from students of varied ethnic and racial backgrounds.

SUMMARY OF ARGUMENT

Amici submit this brief to provide the Court with the perspectives of UT Student Body Presidents on their experiences with diversity at UT from 1992 to the present, and the important impact of those experiences on their education and professional lives.

Amici's experiences over a period of nearly 23 years verify UT's determination that minorities remain underrepresented in the student body. The consistent experience of *amici*, no matter when they attended UT, was that the student body was largely white, particularly in the classroom. Fortunately, *amici* were able to seek out and find experiences and interactions with students of diverse races and backgrounds, particularly through student government where diversity was significantly

greater than in the student body at large. *Amici* cannot overstate the educational benefits that flowed from their experiences of working and interacting with students of diverse backgrounds. Diversity was not only of critical importance to their educational experiences but has also been highly beneficial to their post-graduate and professional lives.

Amici's experiences as representatives of the UT student body demonstrate that UT, the flagship public university of the state of Texas, has a compelling state interest in seeking the educational benefits derived from a racially diverse student body. *Amici* wholeheartedly agree with Justice Powell in *Bakke* and the majority in *Grutter* that "[n]othing less than the 'nation's future depends upon leaders trained through wide exposure' to ideas and mores of students as diverse as this Nation of many Peoples." *Grutter v. Bollinger*, 539 U.S. 306, 324 (2003) (quoting *Regents of the University of California v. Bakke*, 438 U.S. 265, 313 (1978)). *Amici* also believe that UT's minimal consideration of race as part of a holistic admissions process furthers this compelling interest and is narrowly tailored to that end.

ARGUMENT

I. DIVERSITY IS A WORK IN PROGRESS AT UT

The collective experiences of *amici* student leaders who attended UT over the last 23 years demonstrate that although UT had made progress toward a more diverse student body, it has not yet

achieved "critical mass" – the level necessary to realize the full educational benefits of diversity.

A. Affirmative Action Before *Hopwood* 1992-1996.

Before the Fifth Circuit's *Hopwood* decision in 1996, UT was engaged in affirmative efforts to improve diversity in order to overcome the effects of its segregated history. These efforts included an admissions process that selected students using both an Academic Index ("AI") and race. *Fisher v University of Texas at Austin*, U.S. 133 S.Ct. 2411, 2415 (2013) ("*Fisher I*") UT's Fall 1996 freshman class – the last class selected under this methodology before it was invalidated by the *Hopwood* decision – included only 266 African-American students (4.1% of the overall class) and 932 Hispanic students (14.7% of the class). *See Fisher v. University of Texas at Austin*, 645 F.Supp.2d 587 (W.D. Tex. 2009), *aff'd*, 631 F.3d 213 (5th Cir. 2011) *vacated* 133 S.Ct. 2411 (2013).

These numbers represented progress in addressing historically low diversity, but UT still had few African-American and Hispanic students in the 1990's. In the sea of over 50,000 undergraduate and graduate students at UT, the number of minority faces visible in the crowd and available for diverse interactions was small. UT had not achieved sufficient diversity to provide the full educational benefits of a diverse student body that this Court has recognized is a compelling state interest. *Fisher I*, 33 S.Ct. at 2417-18; *Grutter v. Bollinger*, 539 U.S.

306; *Regents of the University of California v. Bakke*, 438 U.S. 265.

Indeed, *amici's* unanimous experience in the years leading up to the 1996 *Hopwood* decision was that diversity was minimal. *Amici* who entered UT during these years were disappointed by the racial homogeneity of the largely white student body. One, who had attended a fairly diverse high school, was "shocked" by the lack of diversity. Minorities remained isolated and often did not speak up in class, and minorities and whites engaged in largely segregated activities outside the classroom.

The lack of diversity was particularly pronounced in classrooms at UT. Classes, particularly smaller classes, were made up of white students for the most part. It was the exception, rather than the rule, to have minorities in a class.

The homogenous nature of many UT classes equated to missed educational opportunities. *Amici* recall that, even when a class included minorities, minorities often did not participate actively in class discussion. A number of minority *amici* recall that, when they felt different from others in a classroom setting, they felt isolated, inhibited, and were sometimes reluctant to speak up in class. These experiences are consistent with this Court's recognition that one important educational benefit of diversity is lessening the isolation of minorities and encouraging their participation and sharing of diverse views in the educational setting. *Grutter*, 539 at 336; *Bakke*, 438 at 323.

In addition to insufficient diversity in the classroom, *amici* recall that minorities and Caucasian students led mostly separate lives outside the classroom, rarely engaging in multicultural activities together. This further limited students' opportunity to fully experience the educational benefits that stem from diversity.[4]

UT's efforts to provide students the educational benefits of diversity were also hampered in the 1990's by unfortunate and well-publicized racial incidents on campus. In the late 1980's and early 1990's, racial tensions arose over apartheid policies in South Africa and two well-publicized racial incidents on campus: one involving "Sambo"[5] themed activities by an all-white fraternity and another involving a racial epithet depicted on a float in UT's annual Round-Up parade. These incidents

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[4] An undergraduate's educational experience and preparation for success in post-graduate jobs and leadership roles is not limited to the classroom, and a great deal of learning in universities occurs outside the classroom in social and extracurricular settings. *See Bakke*, 438 U.S. at 313; *Christian Legal Society v. Martinez*, 130 S.Ct. U.S. 2971, 2989 (2010).

[5] "After the annual parade on April 6, 1990, a fraternity decorated one of the floats with inflammatory racial slurs. Another fraternity sold T-shirts for a basketball tournament with an image of Michael Jordan's body and a Sambo character's head. ... The Sambo character portrayed African-Americans as lazy and with ape-like facial features. The incidents took place three days after the student body elected Toni Luckett to be its first black president..." Sanders, Ashika, "Racial Conflicts Tarnish History of Roundup," *Daily Texan Online* (April 13, 2011).
http://www.dailytexanonline.com/person/roundup
(Last visited 10/29/15).

led to racial protests on campus and perpetuated a public perception that UT was not open or welcoming to minorities. *Amici* of color recall that they attended UT despite these racial incidents for the educational opportunities available to them at UT, but that others questioned their choice to attend the University.

Despite disappointment with UT's level of diversity in the years before the *Hopwood* decision, *amici* from those years were able to and did actively seek out opportunities for interaction with students of different backgrounds. Student government was one such arena that offered these opportunities. *Amici* were also keenly aware of and actively assisted UT in its efforts to make UT more diverse and a welcoming place for students of different races and backgrounds.

B. Diversity After *Hopwood* and Under the Top 10% Law: 1997-2004

In 1996, the U.S Court of Appeals for the Fifth Circuit invalidated UT's practice of considering race in admissions in *Hopwood v. Texas*, 78 F.3d 932. For UT, which had sought to improve diversity to overcome not only the lingering effects of its segregated history but also to recover from the effects of recent racial incidents on its campus, *Hopwood* added to the public perception that UT was not a welcoming place for minorities. Minority enrollments declined, and although *amici* from this era took advantage of and benefited from the opportunities that existed for encounters with

students of diverse backgrounds, they lamented the nearly immediate setback to UT's diversity efforts.

As the years went on, the impact of the *Hopwood* decision continued to hamper UT's ability to attract and enroll a racially diverse undergraduate student body. In 1997, Texas enacted the top 10% law, under which minority admissions eventually recovered, but only to the relatively sparse concentrations that UT had managed to achieve pre-*Hopwood*. *See Fisher I*, 133 S.Ct. at 2416.

Amici attending UT during this period, like their predecessors, were disappointed that the student body remained largely white and frustrated with the lack of diversity. The lack of diversity was especially obvious to *amici* who had attended high schools with significant numbers of minority students. Their experiences are consistent with the student feedback that UT received in its 2003-2004 study concluding that diversity was wanting at UT. *See Fisher I*, 133 S.Ct. at 2416. They are also consistent with UT's 2004 conclusion after performing this study that it had not obtained critical mass under the top 10% law. *Id.*

Like their predecessors, *amici* who were students during this period attended classes that were mostly homogenous. One former Student Body President recalls that most of his courses had 20 to 30 students, with very few minorities. Another noted that her classes decreased in diversity as she progressed from entry level lectures to advanced discussion groups. This decreased the benefits of

group discussions, and to this former Student Body President's mind, "resulted in a failure to train students to be 'citizens of the world' and 'future thinkers.'"

Whites and nonwhites continued to have limited social interactions outside the classroom. One notable exception was student government, which was significantly more diverse than the student body as a whole. It was here in student government that *amici* experienced the most pronounced benefits from interactions with students from different racial and cultural backgrounds. One *amicus,* whose predecessor as Student Body President was African American, recalls that his predecessor engaged and inspired the UT African-American community as well as others to become more involved in student life and student government. Another, observing the impact of a predecessor who was Hispanic, similarly recalls the significant positive impact this President had on the UT campus in general and on the Hispanic student population in particular.

Some *amici*, however, note that "lingering racial ignorance" persisted at UT. One *amicus* notes that UT has had a "difficult and often hurtful" racial history, whose legacy has been an environment that can be perceived to be unwelcoming or uncomfortable for minority students. *Amici* of color felt a special obligation due to their race to respond to racial incidents and to help steer UT's diversity efforts to make UT more welcoming for minorities. This was both a blessing and a burden, as noted by *amicus* Marlen Whitley:

> Part of the blessing of the entire experience of being a student at UT was the ability to fight for and lead certain causes and to work collaboratively with others to help usher in change. Conversely, part of the burden for many students of color was the same thing that helped us lead these charges – we were often relied upon to address the problems and create solutions, which meant that students of color were part-time students and part-time administrators.

C. The Holistic Admissions Era: 2005 to the Present

In 2003, this Court issued its decision in *Grutter*. After completing a comprehensive assessment of its diversity goals and statistics, beginning with the 2005 admissions cycle, UT engaged in a holistic review of applicants who were not eligible for admission under the top 10% law. One factor that was permissibly considered in this review, pursuant to *Grutter*, was race. *See Fisher I*, 133 S.Ct. at 2416-17.

Amici who served as UT Student Body Presidents since 2005 experienced and benefitted from the improvement in the racial composition of the student body after UT changed its admissions policy. A recent Student Body President observes,

> I believe diversity, how I experienced it at UT-Austin, created an environment that

> allowed me to learn and grow. My experience there exposed me to a variety of people who brought with them compelling views and stories that helped me develop in ways I never anticipated prior to attending the University.

At the same time, most believe that UT's overall campus diversity was still insufficient for an optimal learning environment. There is still progress to be made.

One *amicus* from this recent period recounts being frustrated by an "overall lack of depth of diversity." Although there were many student organizations with a specific cultural or ethnic focus, this *amicus* found that the surface appearance of diversity did not reflect the reality that there were few faces from other racial and ethnic backgrounds in the classroom.

Another *amicus* from this period notes the "incredible importance" of diversity in the classroom, because students seeing minority faces become "visually aware" of diversity. That visual awareness makes the classroom stimulating and creates an environment in which students are comfortable to share ideas. In classes with few or no minorities, "people did not speak up" because they looked around and saw similar faces and assumed the existence of similar beliefs. This led more than one *amicus* to feel insufficiently challenged to understand and learn about different belief systems. *Amici* from this period note that although more

diversity in the classroom had been achieved, many classrooms remained entirely white or only minimally diverse. There were exceptions, such as classes involving cultural topics, in which minority representation notably increased. But many liberal arts, upper level classes, and honors classes remained largely homogeneous.

Amici in this most recent group also perceived that the student body remained largely segregated outside the classroom, with the low level of minority participation in student clubs and extracurricular activities. As student leaders, they were frustrated by this lack of diversity in extracurricular activities. Several *amici* point to the reality that some racial and cultural groups on campus have remained isolated, with limited interaction with other groups in the student body outside of the classroom, preventing these groups from learning from one another. Because of this current reality, the need for diversity in the classroom is even greater.

Several *amici* experienced the persistence of racial tensions on campus, but were gratified that these tensions were addressed openly and that positive results followed. One recounts an incident when white students attended a fraternity party in blackface, and African-American students and student groups became upset. The incident, however, led to a constructive dialogue, in which white fraternity members and black students came together to discuss the issue, learn from each other, and try to understand each other. This "was a truly powerful moment – something everyone learned

from" that had an "impact on many who witnessed and participated in it" in understanding the point of view of those from different backgrounds.

The learning process due to racially insensitive incidents continues to this day. The current UT Student Body President, for example, relates several recent events that offended minority groups, a fraternity's "border patrol" themed party last year and a student political organization's event called "Catch an Illegal Immigrant Day" the year before. In the opinion of this *amicus*, the students involved in these events are not necessarily aware of the offensive impact of their actions. He believes that the increased interactions with minority students that would result from a more racially diverse student population would go a long way toward discouraging students from engaging in such offensive events in the future.

Another *amicus* describes his experience that UT's past history as an elite white institution is embodied in its campus architecture and memorials and hence the specter of this history remains present. There are signs of progress. Several years ago, UT decided to change the name of a residence hall originally named after a man described by the *amicus* as a "known racist,"[6] an action that sparked a

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[6] "The University of Texas System Board of Regents [voted] to change the name of Simkins Residence Hall on Thursday...the dormitory, named for a UT law professor who also was a Florida Ku Klux Klan leader..." Khan, Naureen, *UT System Regents Vote to Rename Simkins Hall*, Austin American-Stateman (undated online).

valuable dialogue about creating an inclusive environment on campus and presenting an inclusive and diverse UT student body to the outside world. More recently, the student government voted in March 2015 to remove a statue of Confederacy President Jefferson Davis from its prominent South Mall location.[7] *Amici* credit the increased diversity on campus with the positive outcomes that resulted from these incidents – outcomes that could not have occurred in a student body with weaker minority representation.

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http://www.statesman.com/news/news/local/ut-system-regents-vote-to-rename-simkins-hall/nRwKc/
(Last visited 10/29/16.)

[7] S. Neuman, "Jefferson Davis Comes Down at University of Texas," *The Two-Way: Breaking News From NPR* (Aug. 30, 2015).
http://www.npr.org/sections/thetwo-way/2015/08/30/436072805/jefferson-davis-statue-comes-down-at-university-of-texas.
That said, a number of other "tributes to the Confederacy" remain on the South Mall, including "[t]he Littlefield Fountain, which anchors the mall and at first blush appears to be a generic war memorial, also glorifies the Confederacy, as an inscription on a stone wall makes clear without actually mentioning slavery: 'To the men and women of the Confederacy who fought with valor and suffered with fortitude that states' rights be maintained.'" Haurwitz, Ralph K.M., "Questions Linger Regarding Confederate Statues at UT," *Austin American-Statesman*, May 26, 2010.
http://www.statesman.com/news/local/questions-linger-regarding-confederate-statues-at-ut-711436.html
(Last visited 10/29/15).

The theme from the experience of these *amici* is that there have been real improvements in the creation of a more diverse student body. Those improvements have made it possible for UT to grow from even difficult racial incidents. The progress that has been made post-*Grutter* stems from UT's ability to use a flexible, individualized holistic admissions process. Yet *amici* also agree that while progress has been made, improvement is needed and efforts must continue so that the educational benefits of diversity can be fully realized.

This Court has recognized that context matters in connection with the consideration of race under the Equal Protection Clause. *Grutter*, 539 US at 327. UT's consideration of race in the admissions process must be viewed in the context of its First Amendment interest in composing a student body in furtherance of its mission. *Bakke*, 438 US at 312-313. That mission is affected, in part, by UT's history of *de jure* racial segregation and recent incidents on campus that demonstrate the need for continued dialogue about racial issues. The historical backdrop to UT's holistic admissions program is not ancient history, but, as reflected in the experience of *amici*, involves racial incidents that have extended into the present. UT has not yet attained the critical mass of students needed to fully attain the educational benefits of diversity, and its continued efforts to nurture diversity through its holistic admissions process continues to serve this compelling state purpose.

II. *AMICI'S* EXPERIENCES CONFIRM THAT STUDENT BODY DIVERSITY IS A COMPELLING STATE INTEREST.

This Court's precedent recognizes that student body diversity is a compelling state interest that can justify the use of race in admissions due to the "substantial, important, and laudable educational benefits" that flow from diversity. *Grutter*, 539 U.S. at 328. These educational benefits include, among other things, creating an environment in which a "robust exchange of ideas" can occur by promoting cross-racial understanding, breaking down racial stereotypes, reducing isolation that can result in a lack of participation by minorities, better learning outcomes, and better preparation of students to enter a diverse workforce and society in today's increasingly global marketplace. *Grutter*, 539 U.S. at 324 (citing *Bakke*, 438 U.S. at 318). *Amici*'s universal experience confirms the significant benefits flowing from diversity.

A. *Amici* Had Rich Experiences of Diversity Through Student Government

Although *amici* generally experienced the UT student body as insufficiently diverse, *amici* nonetheless had numerous highly beneficial experiences with those from different racial and cultural backgrounds. Regardless of when they attended UT, *amici* actively sought out exposure to students from other racial and ethnic backgrounds, particularly through participation in student government. For most, it was this student

government experience that provided the greatest opportunity for interaction with students from diverse backgrounds.

Over the past 23 years, UT student government has included a more diverse mix of students than other extracurricular activities at UT. Participating in student government allowed *amici*, far more than the average UT student, to interact with diverse students of different races, ethnicities, religions, and socioeconomic backgrounds. These interactions have exposed *amici* to different viewpoints and enhanced *amici*'s ability to be comfortable around people from different walks of life, a critical learning experience for future leaders.

For those who had not previously been exposed to peers from different backgrounds – who before attending UT had lived in a homogenous "bubble" – their UT experience was life changing. A white *amicus*, who had grown up in a small, rural, racially homogeneous Texas town, noted that in student government, he worked with minorities he had not encountered in his hometown, and his overall educational experience benefitted as a result. Their student government experiences taught *amici* the importance of seeking out different perspectives in analyzing, weighing and making decisions.

Many note that individuals not involved in student government did not have the same opportunity for interaction with students of diverse backgrounds and as a result did not reap diversity's educational benefits. Indeed, one *amicus* considers

the exposure he had to diversity as UT Student Body President a "gift."

Outside of student government and some classes, however, opportunities for significant exposure to and interactions with those from different racial and ethnic backgrounds have been significantly more limited. This led a number of *amici* to independently express concern with how easy it was at UT for white students to remain in a "bubble" of their own race. This was unfortunate because an important purpose of a college education is exposure to and learning about the larger world. In the words of one *amicus*, "college is the place you go to learn to take the next step out into the world."

B. *Amici's* Experiences of Diversity in the Classroom Were a Key Component of Their UT Education

Amici view their exposure to different races and cultures as being among the most valuable of their educational experiences. They often learned the most hearing the perspectives of peers with backgrounds different than their own. In the words of one *amicus*, diversity, including diversity of race, socioeconomic class, and national origin, translated into a broad range of opinions that made classes "worth attending." He learned that "we are all just human" from this experience and firmly believes that there is "no other way to learn this than having conversations with people from different backgrounds." Many *amici* recall classroom discussions that literally opened their eyes to other

points of view. These expressions challenged *amici* with new ideas and experiences. For example, one *amicus* found that his interactions with people from different backgrounds "enlightened" him on topics he had never contemplated before arriving at UT, which was critical in developing his "thinking about society as a whole."

Another *amicus* who majored in government found great value in the perspectives of students of different racial backgrounds about political issues and campaign tactics. One classroom discussion, for example, addressed President Obama's campaign tactics and how he communicated differently to different racial constituencies. Without diversity, that discussion would not have been as effective or enlightening.

An *amicus* of Hispanic descent gives the example of a discussion in which he and a white student exchanged differing perspectives about Texas state history. The *amicus*, who had spent some time living in Mexico, shared that in the view of some Mexicans, Texas was formerly Mexican land wrongly taken from Mexico. This viewpoint had been unknown to the white student, who had been taught that Sam Houston victoriously fought off the Mexicans to form the state of Texas. This sharing of perspectives led to an interesting conversation and benefitted both students.

Many of the *amici* of color also found profound recognition and acknowledgement when they felt free – sometimes for the first time in their lives – to

express their perspectives to their non-minority peers. One *amicus* recalls taking an African-American studies course with a significant number of white students in it. As a younger student in a predominately Caucasian school, this *amicus* had often felt isolated, uncomfortable, and afraid to speak out during certain discussions of literature and history. In his African-American Studies course at UT, however, the presence of interested white students made him feel like a weight had been lifted from him and made him eager to share with them his heritage and culture.

The classroom discussions given as examples above are exactly the kind of discussions that promote cross-cultural understanding and result in the kind of important educational benefits recognized by this Court. *Grutter*, 539 U.S. at 334; *see also Fisher I*, 133 S.Ct. at 2418.

The critical importance of diversity in education is clear to all *amici*. As *amicus* Marlen Whitley observes:

> If you think of all of the great artists throughout the history of mankind, not one has painted a masterpiece using only one color. Similarly, no campus community can reach its potential without the inclusion and participation of an array of students from all backgrounds. [T]his particular notion holds true for public universities.

> [D]iverse environments provide for more meaningful discussion, problem solving and ultimately better service.

Another *amicus* sums it up this way: interacting with others from different racial, ethnic and religious backgrounds is essential for training "world citizens."

C. Their Experiences with Diversity at UT Have Enhanced *Amici's* Post-Graduate and Professional Lives

Amici's experiences with diversity have proven immensely valuable after graduation from UT, including in their careers and leadership positions, where they must effectively interact with diverse colleagues and clients in an increasingly global marketplace. As one *amicus* describes it, "the U.S. is a melting pot, and especially as younger generations enter the diversifying workforce, we have to learn how to work with one another, understand one another, and appreciate backgrounds and identities different than our own."

Amici who went on to graduate and professional school found that their experiences with diversity at UT were important to their success. One *amicus* found that his experiences working with and getting to know individuals with different racial backgrounds while an undergraduate was "crucial in law school" as it enabled him to see and understand different perspectives. He also credits his undergraduate UT experience with enabling him to write better exams in law school because he could

consider and offer different perspectives in crafting his response.

Amici have used these diverse experiences to be more effective and successful in their professional endeavors. One *amicus* reports that her UT experiences were particularly valuable in her work at the White House on domestic policy matters. She credits her exposure at UT to different people, ideas, and situations with helping her better understand and analyze various domestic policy issues, including issues of education, transportation, healthcare and immigration.

Another *amicus* who worked for a Texas State Senator after law school, focusing on higher education issues, similarly found that learning and working with racially diverse individuals in undergraduate classes and student government gave him perspective and background that allowed him to participate and contribute in policy discussions concerning admissions and budget issues. He continues to benefit from these experiences in his current role as a corporate lawyer, where they have facilitated his ability to work with others in his firm and in his practice.

An *amicus* who now serves as an executive and in-house counsel at a large urban high school echoes these perspectives. He credits his exposure to diversity at UT with his effectiveness in that role. That experience has enabled him to better understand and even anticipate concerns specific to certain constituent groups and to work in and

support racially diverse communities in both political and educational contexts. He feels strongly that one "cannot fake" an understanding and comfort with diverse races, and that promoting racial diversity is a basic "human interest."

Several *amici* have found their UT diversity experiences essential in their management consulting careers. Management consultants work daily with clients in the public and private sectors, many of whom are minorities and others with diverse backgrounds. They note that at UT they learned the interpersonal skills and understanding needed to relate and understand these clients. Specifically, learning from UT peers who identify as Black or Hispanic taught them how to interact and operate in different situations. They use what they learned at UT daily.

Not surprisingly, those *amici* whose professional work involves work in diverse communities also find that their experiences at UT interacting with students of diverse backgrounds have provided an essential foundation for their work. One, for example, has been involved in a community program tutoring and mentoring underprivileged students from Chicago's South Side, many of whom are African American. Because of his experiences at UT, he has been able to connect with these students and believes that, were it not for what he learned at UT, he would not understand the importance of this work or have the ability to truly connect, which is necessary to be effective in this work.

Amicus John Black sees building and benefitting from diversity in the educational setting as a challenge similar to making a quilt:

> An award winning quilt is not made of just one color. You want to have different colors, fabrics, and textures to build a truly amazing quilt. If too much of your quilt looks the same, you will not have a robust, colorful, unique quilt.

His strong belief that effective leadership requires exposure to diverse viewpoints is consistent with this Court's precedent. As this *amicus* states:

> "You can't be effective in a leadership role without being willing and able to step out of your square on the quilt. You can't be an effective leader by telling others that their square on the quilt has to look like your square."

In short, it is *amici*'s strongly held conviction based on personal experience that important educational benefits arise from meaningful diverse interactions on campus and in the classroom.

CONCLUSION

The educational benefits of diversity are clear to these *amici*. Attaining the educational benefits of a diverse learning environment is not easy – there are many challenges that UT and other institutions face in trying to provide these educational benefits to their students. A holistic admissions review policy consistent with the *Grutter* framework is an important part of this work. *Amici* strongly support UT's efforts to make UT a more welcoming and inclusive institution to people of all backgrounds and to provide the framework for greater diversity and more enriching learning environment, both in and out of the classroom.

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